



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/04/04, by Frank Aguilar

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/12-13

from Ch. 38, par. 12-13

Amends the Criminal Code of 1961. Provides that criminal sexual assault also consists of a gang member who aided by 2 or more persons actually present, subjects the victim to sexual penetration without the consent of the victim or who with intent to expose the intimate parts of the body of the victim and when aided by 2 or more other persons actually present, removes or attempts to remove an article of clothing from the victim without the consent of the victim. Provides that a violation is a Class 1 felony.

LRB093 18399 RLC 44107 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 12-13 as follows:

6 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

7 Sec. 12-13. Criminal Sexual Assault.

8 (a) The accused commits criminal sexual assault if he or  
9 she:

10 (1) commits an act of sexual penetration by the use of  
11 force or threat of force; or

12 (2) commits an act of sexual penetration and the  
13 accused knew that the victim was unable to understand the  
14 nature of the act or was unable to give knowing consent; or

15 (3) commits an act of sexual penetration with a victim  
16 who was under 18 years of age when the act was committed  
17 and the accused was a family member; or

18 (4) commits an act of sexual penetration with a victim  
19 who was at least 13 years of age but under 18 years of age  
20 when the act was committed and the accused was 17 years of  
21 age or over and held a position of trust, authority or  
22 supervision in relation to the victim; or

23 (5) is a gang member and, aided by 2 or more persons  
24 actually present, subjects the victim to sexual  
25 penetration without the consent of the victim; or

26 (6) is a gang member and, with intent to expose the  
27 intimate parts of the body of the victim and when aided by  
28 2 or more other persons actually present, removes or  
29 attempts to remove an article of clothing from the victim  
30 without the consent of the victim.

31 (b) Sentence.

32 (1) Criminal sexual assault is a Class 1 felony.

1           (2) A person who is convicted of the offense of  
2 criminal sexual assault as defined in paragraph (a)(1) or  
3 (a)(2) after having previously been convicted of the  
4 offense of criminal sexual assault, or who is convicted of  
5 the offense of criminal sexual assault as defined in  
6 paragraph (a)(1) or (a)(2) after having previously been  
7 convicted under the laws of this State or any other state  
8 of an offense that is substantially equivalent to the  
9 offense of criminal sexual assault, commits a Class X  
10 felony for which the person shall be sentenced to a term of  
11 imprisonment of not less than 30 years and not more than 60  
12 years. The commission of the second or subsequent offense  
13 is required to have been after the initial conviction for  
14 this paragraph (2) to apply.

15           (3) A person who is convicted of the offense of  
16 criminal sexual assault as defined in paragraph (a)(1) or  
17 (a)(2) after having previously been convicted of the  
18 offense of aggravated criminal sexual assault or the  
19 offense of predatory criminal sexual assault of a child, or  
20 who is convicted of the offense of criminal sexual assault  
21 as defined in paragraph (a)(1) or (a)(2) after having  
22 previously been convicted under the laws of this State or  
23 any other state of an offense that is substantially  
24 equivalent to the offense of aggravated criminal sexual  
25 assault or the offense of criminal predatory sexual assault  
26 shall be sentenced to a term of natural life imprisonment.  
27 The commission of the second or subsequent offense is  
28 required to have been after the initial conviction for this  
29 paragraph (3) to apply.

30           (4) A second or subsequent conviction for a violation  
31 of paragraph (a)(3) or (a)(4) or under any similar statute  
32 of this State or any other state for any offense involving  
33 criminal sexual assault that is substantially equivalent  
34 to or more serious than the sexual assault prohibited under  
35 paragraph (a)(3) or (a)(4) is a Class X felony.

36           (5) When a person has any such prior conviction, the

1 information or indictment charging that person shall state  
2 such prior conviction so as to give notice of the State's  
3 intention to treat the charge as a Class X felony. The fact  
4 of such prior conviction is not an element of the offense  
5 and may not be disclosed to the jury during trial unless  
6 otherwise permitted by issues properly raised during such  
7 trial.

8 (c) For the purposes of this Section, "gang member" has the  
9 meaning ascribed to it in Section 10 of the Illinois Streetgang  
10 Terrorism Omnibus Prevention Act.

11 (Source: P.A. 90-396, eff. 1-1-98.)